

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 346 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and

MR.JUSTICE M.C.PATEL

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

MAYURDHWAJ MAGNESIA WORKS (P) LTD

Versus

COMMISSIONER OF INCOME-TAX

Appearance:

MR MG DOSHIT for Petitioner

MR MANISH R BHATT for Respondent No. 1

CORAM : MR.JUSTICE B.C.PATEL and

MR.JUSTICE M.C.PATEL

Date of decision: 20/08/1999

ORAL JUDGEMENT (Per M.C. Patel, J.)

The following question has been referred for the
opinion of this Court by the Income Tax Appellate
Tribunal, Ahmedabad 'A' Bench at the instance of the
Assessee :-

"Whether, on the facts and in the circumstances

of the case, the Tribunal was right in holding that the expenditure of Rs.10,000/- (Ten thousand) incurred by the assessee being the consulting fees paid for preparing the project Report for the manufacture of other magnesium compounds was capital expenditure".?

2. The learned counsel for the assessee contended that there was no supporting material for coming to the conclusion that the project report was prepared and infact there was nothing more than an agreement.

3. However, the question as framed assumes that the project report was prepared for manufacturing of magnesium compounds for which consulting fees of Rs.10,000/- were paid. The Tribunal in paragraph 7 of its judgment recorded a finding that the expenditure was incurred for a project for manufacturing a new substance, and the Tribunal rejected the contention of the assessee that it was merely for getting knowledge. The said finding has not been challenged. In the facts and circumstances of the case, we are of the opinion that the finding recorded by the Tribunal that the expenditure in this case was of capital nature and was not revenue expenditure, is a finding of fact, which calls for no interference.

4. Hence we answer the question referred in the affirmative, i.e. in favour of the Revenue and against the Assessee. No order as to costs.

csm./ -----